



**City of Scottsdale
Charter Review Task Force**

MARKED AGENDA

5:00 p.m., Monday, November 2, 2009
City Hall Kiva Forum, 3939 N. Drinkwater Blvd., Scottsdale, AZ 85251

Call to Order / Roll Call MEETING WAS CALLED TO ORDER AT 5:02 P.M. WITH ALL MEMBERS PRESENT, EXCEPT FOR LISA JOHNSON STONE.

1. Public Comment

RAY TORRES AND JAY DUSHOFF SPOKE, AND STEVE HIRSCH AND MIKE MANSON SUBMITTED CARDS AND YIELDED THEIR TIME TO JAY DUSHOFF.

2. Discussion and possible action regarding recommendations to the City Council regarding possible amendments to the Scottsdale City Charter

a. Article 1 - Incorporation, Form of Government, Powers and Boundaries

- i. Discuss possible recommendations for amendments to Article 1 relating to condemnation, waivers of claims for diminution of value (Prop. 207 waivers) and related matters.

JIM DEROUIN MOVED THAT THE LANGUAGE IN ARTICLE 1, SECTION 3, SUBSECTIONS A & O BE APPROVED TO READ AS FOLLOWS:

“A. THE CITY MAY ACQUIRE PROPERTY WITHIN OR WITHOUT ITS CORPORATE LIMITS FOR ANY CITY PURPOSE, CONSISTENT WITH STATE LAW, IN FEE SIMPLE OR ANY LESSER INTEREST OR ESTATE, BY PURCHASE, GIFT, DEVISE, LEASE OR CONDEMNATION, AND MAY SELL, LEASE, MORTGAGE, HOLD, MANAGE AND CONTROL SUCH PROPERTY AS ITS INTERESTS MAY REQUIRE. CONDEMNATION MAY BE EXERCISED ONLY IF IT IS AUTHORIZED BY THIS STATE, IF IT IS FOR A PUBLIC USE, IF THE CITY HAS EXHAUSTED ALL REASONABLE OPTIONS TO AVOID THE USE OF CONDEMNATION INCLUDING THE NEGOTIATION OF JUST COMPENSATION AND IF ITS USE IS NARROWLY EXERCISED TO ADVANCE THE PUBLIC USE THE CITY CONTEMPLATES FOR THE PROPERTY TO BE ACQUIRED. LAND USE LAWS WHICH REDUCE PRIVATE PROPERTY RIGHTS SHALL FURTHER COMPLY WITH ALL ARIZONA LAWS RELATING TO DIMINUTION IN VALUE AND JUST COMPENSATION THEREOF.

[...]

O. THE CITY SHALL BE PROHIBITED FROM REQUESTING OR RECEIVING WAIVERS OF CLAIMS FOR DIMINUTION IN VALUE AND/OR COVENANTS NOT TO SUE FOR DIMINUTION IN VALUE, OR THE EQUIVALENT

THEREOF, IN ADVANCE OF PROCESSING OR APPROVING ADMINISTRATIVE LAND USE APPLICATIONS, INCLUDING, BUT NOT LIMITED TO, REQUESTS FOR PLAN REVIEW, DEVELOPMENT REVIEW BOARD APPROVAL, SUBDIVISION PLAT APPROVAL AND CONDITIONAL USE PERMITS. THE CITY MAY REQUEST, RECEIVE AND CONSIDER WAIVERS OF CLAIMS FOR DIMINUTION IN VALUE AND/OR COVENANTS NOT TO SUE, OR THE EQUIVALENT THEREOF, BEFORE MAKING A DECISION ON LEGISLATIVE LAND USE APPLICATIONS THAT ARE INITIATED BY THE LANDOWNER OR ON ITS BEHALF WITH AUTHORIZATION, INCLUDING BUT NOT LIMITED TO, REQUESTS FOR ZONING CHANGES AND REQUESTS FOR ABANDONMENTS, BUT SHALL NOT REQUIRE THAT SUCH WAIVERS BE FILED BEFORE PROCESSING THOSE APPLICATIONS. NO COVENANT NOT TO SUE OR ADVANCE WAIVER OF CLAIMS UNDER PROPOSITION 207 (A.R.S. § 12-1134), OR THE EQUIVALENT, SHALL BE VALID OR ENFORCEABLE UNLESS THAT WAIVER OR COVENANT WAS FREELY, KNOWINGLY AND VOLUNTARILY GIVEN WITHOUT IMPROPER DURESS EXERTED BY AND ATTRIBUTABLE TO THE CITY.

EXCEPT AS PROHIBITED BY THE CONSTITUTION OF THIS STATE, OR RESTRICTED BY THIS CHARTER OR THE LAWS OF THIS STATE PREEMPTING THE CHARTER, THE CITY SHALL AND MAY EXERCISE ALL MUNICIPAL POWERS, FUNCTIONS, RIGHTS, PRIVILEGES AND IMMUNITIES OF EVERY NAME AND NATURE WHATSOEVER."

ALAN KAUFMAN SECONDED. MOTION PASSED 6-0.

CHARLIE SMITH STATED AFTER THE VOTE THAT HE WAS NOT IN SUPPORT OF THE CHANGES TO SUBSECTION O.

- b. **Article 2 - The Council; Article 3 - City Manager; Article 4 – Administrative departments and offices; Article 11 – City Court**
 - i. Discuss possible recommendations for amendments to Article 2, including, but not limited to, Section 9 relating to Council to be judge of qualifications of its members, and Section 16 relating to consideration of petitions.

SUSAN BITTER SMITH MOVED THAT IN ARTICLE 2, SECTION 9, BE AMENDED TO READ AS FOLLOWS:

"THE COUNCIL, AS PROVIDED BY ORDINANCE, SHALL BE THE JUDGE OF THE ELECTION AND THE QUALIFICATIONS, PURSUANT TO SECTION 4, OF ITS MEMBERS AND FOR SUCH PURPOSE SHALL HAVE POWER TO SUBPOENA WITNESSES AND REQUIRE THE PRODUCTION OF RECORDS, BUT THE DECISION OF THE COUNCIL IN ANY SUCH CASE SHALL BE SUBJECT TO REVIEW BY THE COURTS."

CHARLIE SMITH SECONDED. MOTION PASSED 6-0.

JIM DEROUIN SAID HE WOULD WORK WITH STAFF TO LOOK AT THE CODE OF ETHICAL CONDUCT AND SEE IF FURTHER RECOMMENDATIONS SHOULD BE CONSIDERED TO ARTICLE 2, SECTION 4.

JIM DEROUIN MOVED TO CHANGE ARTICLE 2, SECTION 16 CHANGING THE WORD "ACTED" TO "VOTED," STRIKING "THIRTY (30)" AND ADDING "SIXTY (60)." ALAN KAUFMAN SECONDED. MOTION PASSED 6-0.

THE TASK FORCE AGREED TO DISCUSS THE ISSUE OF MULTIPLE PETITIONS ON THE SAME SUBJECT AT A LATER DATE.

- ii. Discuss possible recommendations for amendments to Articles relating to appointees of the City Council, including, but not limited to, Article 2, Section 20 relating to the internal (city) auditor; Article 3, the city manager; Article 4, the city clerk, city treasurer and city attorney; and Article 11, relating to the city judge, and related matters.

BRENT STOCKWELL PRESENTED BRIEFLY ABOUT THE INFORMATION CONTAINED IN THE AGENDA PACKET.

DICK BOWERS SPOKE.

IT WAS AGREED THAT DISCUSSION ON THIS ITEM WOULD CONTINUE AT THE NOVEMBER 16, 2009 MEETING

- iii. Discuss possible recommendations for amendments to Article 2 changing the method of selection of council members from at large to district.

THIS ITEM WAS CONTINUED TO THE NOVEMBER 16, 2009 MEETING

3. Review, discuss, and possibly amend draft agenda for November 16, 2009 meeting

AFTER DISCUSSION, THE TASK FORCE AGREED THAT THE ORDER OF TOPICS FOR THE NEXT MEETING WOULD BE PUBLIC COMMENT, CONTINUED DISCUSSION ON THE CHARTER OFFICER POSITIONS, AND A DISCUSSION OF THE DISTRICTING ISSUE.

4. Adjournment - MEETING ADJOURNED AT 8:13 P.M.